

**REMARKS**

This paper is being presented in response to the non-final Office Action dated March 8, 2006, wherein (i) claims 1-6, 8-16, 18-21, 23-44, and 46-55 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Spriggs et al. U.S. Patent No. 6,421,571 ("Spriggs") either taken alone or in view of Forney et al. U.S. Pat. Pub. No. 2002/0067370 ("Forney"), and (ii) claims 7, 22 and 45 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Spriggs in view of Hays et al. U.S. Patent No. 5,855,791 ("Hays").

Claims 1-16 and 18-55 remain pending and at issue. Reconsideration and withdrawal of the rejections of claims 1-16 and 18-55 are respectfully requested in view of the following remarks.

The applicants express their appreciation for the courtesies extended during the telephonic interview on May 23, 2006. The applicants' undersigned attorney and Examiner Chang discussed limitations of claim 1 in view of the teachings of Spriggs and Forney. No agreement was reached.

The applicants request consideration of the documents cited in the Information Disclosure Statement mailed on May 11, 2006. An initialed copy of the Form PTO-1449 submitted therewith is hereby solicited.

**I. The Pending Claims Recite Patentable Subject Matter over the Cited Art**

All pending claims stand rejected under 35 U.S.C. §103(a) as being unpatentable over Spriggs either taken alone or in view of Forney or Hays.

Reconsideration and withdrawal are respectfully requested, as the applicants submit that a prima case of obviousness has not been established. The applicants accordingly traverse the art-based rejections on at least the following grounds.

As set forth in MPEP §2142, three basic criteria must be met to establish a prima facie case of obviousness. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings.

Second, there must be a reasonable expectation of success. Finally, the prior art references must teach or suggest all of the claim limitations.

Each of the independent claims 1, 16, 27 and 37 requires, *inter alia*, that data is made accessible, made available, or provided to an application implemented by an outside service provider. Claim 1 specifies a method of collecting data in which data is collected from, and made available to, a service application implemented by an outside service provider. Claim 16 specifies a method of performing operations for a process plant in which first and second data are made available to, and collected from, a second application implemented by an outside service provider, respectively. Claims 27 and 37 specify a data communication system in which a database is adapted to provide data to a second application (or a service application) implemented by an outside service provider.

The applicants respectfully submit that none of the cited references disclose or suggest data made accessible, made available, or provided to an application implemented by an outside service provider. Indeed, none of the cited references make any reference to an outside service provider, much less an application implemented by an outside service provider.

Spriggs, in contrast, describes a typical scenario – a process plant having control and automation systems commercially provided by third parties (col. 6, lines 62-65). These systems are implemented internally, by process plant personnel, after installation during the plant commissioning process.

This scenario differs, as acknowledged by the examiner, from one in which an outside service provider implements the service application (Office Action, paragraph 6). As a result, Spriggs fails to address the problems raised if outside service providers implement the service application.

It is respectfully submitted that the other cited references fail to cure this deficiency.

Like Spriggs, Forney is directed to displays of process control information. Using a portal server approach, Forney enables such process control information displays to be tailored to various individuals with differing roles. To this end, Forney

describes a portal server that utilizes web service handlers to support gathering data from different sources.

The web service providers are not outside service providers, nor do they constitute something implemented by outside service providers. On the contrary, each web service provider is software. Indeed, the software can be installed on the server, as the paragraph preceding the cited portion of Forney explains:

**[0346]** Turning now to **FIG. 12**, in a particular exemplary embodiment of the invention, a new portal server framework is provided in the form of a framework web service handler **400** that exposes a set of methods allowing client applications **410** to get a list of available data sources and/or data types from a data provider registry **420** that stores a set of entries corresponding to both external/third-party data provider Web service handlers **425** (created from a development toolkit) and internally developed data provider Web service handlers **427**. Each of the data provider web service handlers (**425** and **427**) in turn connects to data sources that are associated with that data type. When a new handler or source is added by means of a configuration interface similar to the one depicted in **FIG. 4**, a new entry is added to the data provider registry **420** corresponding to the new provider.

The software may be developed via a development toolkit provided to third party software developers or developed internally. Either way, the software is added via a configuration interface for use in conjunction with the portal server. No reference is made to an outside service provider implementing the software.

Turning to the last cited reference, Hays also fails to cure the deficiency of Spriggs. Instead, Hays was cited in connection with the recitation of a corrosion monitoring application in claims 7, 22 and 45 and, in fact, is directed to a control system for a cooling system.

Based on the foregoing, it is respectfully submitted that the cited references fail to disclose or suggest data made accessible, made available, or provided to an application implemented by an outside service provider. Thus, it is further submitted that the cited references fail to teach or suggest all of the claim limitations.

For these reasons, it is respectfully submitted that a prima facie case of obviousness has not been established. It follows that claims 1-16 and 18-55 recite patentable subject matter over any combination of the cited references.

## **II. The Applicants Traverse the Taking of Official Notice**

To the extent that official notice has been taken to support the rejection of the pending claims, the applicants respectfully traverse the position for the following reasons.

As set forth in MPEP §2144.03, the taking of official notice is not appropriate where the asserted facts are not capable of instant and unquestionable demonstration as being well-known.

The applicants submit that data made accessible, made available, or provided to an application implemented by an outside service provider, as required by the claims, is not well known for at least the reasons set forth in the application. As explained in the Background of the Invention section, testing and other tasks performed by outside service providers are generally performed without data sharing (page 5, lines 15-21). More specifically, “the data is typically collected and stored in a proprietary manner” by the outside service provider (page 5, lines 19-20).

In view of the separate, proprietary approach taken in the past, the applicants respectfully request that authority be produced in the event that further official notice is taken in this regard.

## **III. Conclusion**

The applicants have now made an earnest attempt to place this case in condition for immediate allowance. For the foregoing reasons and for other reasons clearly apparent, the applicants respectfully request reconsideration and allowance of claims 1-16 and 18-55.

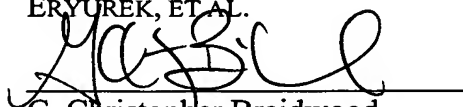
This paper is timely filed, as it is accompanied by a petition for a one-month extension of time and the requisite fee.

If there are matters that can be discussed by telephone to further the prosecution of this application, the applicants respectfully request that the examiner call their attorney at the number listed below.

Respectfully submitted,

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